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Atari Online News, Etc.
A-ONE Online Magazine
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->From the Editor's Keyboard "Saying it like it is!"
"*****"

I think I saw the sun for all of five minutes this week! What a rotten week. If it weren't for the "fact" that we needed the rain, it would have been a total disaster weather-wise. Hopefully, it's supposed to be a nice weekend. Hey, we've earned it!

At least we had a short work week due to the holiday here. It's always nice to have those long weekends! The down side as far as A-ONE goes is we had one less day of news to follow. In all likelihood, this will be a smaller-than-usual issue this week. Hey, even Joe Mirando found an excuse for not getting his column in this week! Imagine, he's laid-up with chronic back problems. But, it happens occasionally.

Hey, I just want to say this this week's issue contains NO mention of the Microsoft antitrust case! This is probably the first week in perhaps a couple of years that the case hasn't made the news, and this magazine. Must be a new scandal brewing!

Anyway, in keeping with the short holiday week, I'll spare you all some deep philosophical ramblings and we'll get right to the important stuff.

Until next time...

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Update From June of Eureka :-)

Hi all,

I have uploaded the june release of Eureka on my WEB page. My software is a 2D Graph Describer and a 3D Modeller. About news, I can tell that the compatibility of POV 3.1 export is now good when using POV 3.5. The LDG screen driver is now better handled, and more compatible with some platforms. I can say that Tos2Win is now OK, though it was very tricky

since then. The RAM is also better managed. Thanks to that, I could run Eureka + OpenGL in 4Mb of memory on my Falcon and MagiC Mac demo. These are my references about a minimal configuration. Of course, without OpenGL, Eureka should work in 1Mb of memory (can anyone tell me more ?). I also performed some optimizations in speed. Shortly, I strongly recommend it to you ! Any comment is welcomed.

So, see you soon for updated news of ATARI front-line ...

-- Francois LE COAT
Eureka 2.12 Author (2D Graph Describer, 3D Modeller)

<http://eureka.atari.org>
lecoat@atari.org

Past Life ;-) for Atari

Hi!

Have you ever wondered who were you in your past life? Now you have the chance to check it out with your Atari-compatible computer. Just enter the day, month and year when you were born in THIS life, and my prg will tell you who you were in your PREVIOUS life.

The original version has been written by Natalie V. Zubar. I have only made the Atari version. It works with all Ataris, but 640x400 display is needed (so use ST-HIGH on STs). It is a GEM program of course.

You may find it at <http://gregory.atari.pl/pastlife.htm>

So have fun with the secret esoteric wisdom ;-)))

--
Grzegorz Pawlik
<http://marijuana.atari.org/>

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PEOPLE ARE TALKING
compiled by Joe Mirando
joe@atarinews.org

[Editor's note: Joe's column for this week is missing due to illness. He'll be back next week.]

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->In This Week's Gaming Section - Nintendo A "Loser" In Price War?
 Nintendo Gets Rave Game Press!

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->A-ONE's Game Console Industry News - The Latest Gaming News!
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# Nintendo Faces Fallout From Console Price War

Japanese video game giant Nintendo Co. Ltd. ushered in a new management team last week as the old guard stepped aside, but its main problem remains -- blistering competition in the game console business.

The effect of that is likely to show up in the company's earnings due out on Thursday, two weeks after dominant Sony Corp. triggered an industry-wide price war by cutting the price of its best-selling PlayStation consoles.

Analysts say Nintendo, which makes game consoles and software, could see sales of its "GameCube" console suffer this year as Sony and newcomer U.S. newcomer Microsoft raise the pricing pressure.

Still, they add that Nintendo's software line-up looks promising and should benefit from strong industry-wide console sales, taking up the slack from the GameCube.

The weak yen is expected to give earnings a boost for last business year, but profit growth looks set to slow going forward, especially with the yen showing signs of strength.

The company revised up its 2001/02 earnings forecast last month to a group net profit of 110 billion yen from 80 billion. The weak Japanese currency, which boosted overseas sales and repatriated earnings, added some 50 billion yen to its group current profit.

The Nihon Keizai Shimbun business daily said last month that Nintendo is likely to post 640 billion yen (\$5.13 billion) in sales this year, compared with a company estimate of 550 billion yen for 2001/02.

But the newspaper said operating profit may only edge up to 130-140 billion yen for the year to next March from an estimated 120 billion yen last year.

Takashi Oka, chief analyst at Tsubasa Securities, said he expects further price cuts this business year, which could suppress Nintendo's profits.

"I expect Nintendo to slash the GameCube price again at the end of this year," Oka said.

Sony slashed a third from the U.S. price of its PlayStation 2 (news - web sites) console and announced cuts in Europe and Japan, triggering a quick response from Microsoft, which knocked around a third off the price of its "Xbox."

Nintendo was forced to follow, announcing it would cut the price of its GameCube machine in Japan to 19,800 yen (\$157.90) from 25,000 yen in a bid to regain its price advantage.

Concerns that this will hit Nintendo's bottom line have been hurting its share price. They have dropped more than 22 percent this year, underperforming a 14 percent rise by the benchmark Nikkei average.

Nintendo will face the challenge from Sony and Microsoft with a new leadership after announcing on Friday that its charismatic president Hiroshi Yamauchi, 74, would step down after more than half a century at the helm.

Yamauchi, outspoken but publicity-shy and a stand-out with his purple suits and plainspoken style, guided Nintendo's meteoric rise from a tiny maker of card games to a videogame powerhouse.

Nintendo said it sold a combined 3.8 million GameCubes in Japan and the United States last business year after the machine hit the market in September and November respectively.

Sales in Europe have been going strong since the May 3 debut, Nintendo said. The Nihon Keizai reported Nintendo would aim to ship 12 million GameCubes globally this year.

The hand-held Game Boy Advance, Nintendo's ace product, is expected to shine again, with the newspaper saying shipments would be 19 million units this business year.

Nobumasa Morimoto, analyst at Tokyo-Mitsubishi Securities, said that despite the tough fight against Sony and Microsoft, Nintendo should be able to beef up its profits from software sales as it has built up a loyal following of avid young game players.

"Kids never buy games that are not interesting to them; they are very finicky consumers. Nintendo has sold millions of games under such strict screening," he said.

Nintendo last week announced the newest version of its flagship "Mario" game, due for release in August. The series featuring Mario, the rotund plumber in red overalls, has sold tens of millions of copies worldwide.

The company also plans to roll out more of its popular "Zelda" games later this year, which analysts say should help it to boost sales of the GameCube during the crucial Christmas holiday season.

#### Game Press Gives Nintendo Raves for Coming Titles

Nintendo's familiar cast of characters -- Mario, Samus, Link and others -- has taken top awards from the gaming press after showing off the titles it hopes will give it an edge in the hyper-competitive video game market this holiday season.

Nintendo Co. Ltd. topped the best-of lists on GameSpy.com (<http://www.gamespy.com>) and IGN.com (<http://www.ign.com>), a unit of IGN Entertainment Inc. Both sites released their lists for the Electronic Entertainment Expo, the industry's major trade show, on Friday.

Those honors followed Thursday's release of a top-10 list from Gamers.com (<http://www.gamers.com>), the Web site for leading game magazines like "Computer Gaming World" and "Electronic Gaming Monthly," a list also lead by Nintendo.

IGN awarded its "Best of Show" to "Metroid Prime," a Nintendo-developed title starring "Samus," a female warrior in a severe-looking suit of armor. The game is the latest in a franchise that goes back to the mid-1980s.

GameSpy took a broader view, however, giving its Best of Show award to Nintendo's entire lineup, both its long-standing internal franchises and independently-developed titles.

"We'd fault their lack of originality, except they continue to impress us -- and we're not alone, judging by the hordes attacking their booth," GameSpy's editors said at the end of a 23-page "Best Of" special on their site.

Gamers.com picked "The Legend of Zelda" as its No. 1, the latest title in a franchise working toward its 20th year. The game has been the source of controversy within the gaming community because of its use of "cel-shaded" graphics, which some have said makes the game look like a cartoon.

Game publishers often tout such awards in their promotional materials, although their impact on sales is unclear.

Spurred by the plethora of advanced consoles on the market, U.S. video game hardware and software sales topped \$9 billion in 2001, with an even larger tally expected in 2002.

For three of the five gaming platforms, IGN and GameSpy agreed on the top titles for the show.

For Sony Corp.'s PlayStation 2 (PS2), both went for "Kingdom Hearts," published by Square Co. Ltd. and based in part on characters from Walt Disney Co.

For Microsoft Corp.'s Xbox, both chose one of the most talked-about games of the show, "Blinx: The Time Sweeper," published by Microsoft and featuring a cat who can travel in four dimensions (including time).

On the personal computer, sometimes ignored as a gaming platform, IGN and GameSpy agreed on "DOOM III," to be published by Activision Inc. At the E3 show in Los Angeles, people waited on line for hours to see a demonstration.

The two sites differed on their top choices for Nintendo's two platforms, the GameCube console and the Game Boy Advance handheld platform.

IGN went with "Metroid Prime" for the GameCube and "Metroid Fusion" for the Game Boy Advance, while GameSpy chose "Animal Crossing" for the GameCube and "Castlevania: Harmony of Dissonance" for the handheld.

The top-10 list from Gamers.com included three titles each for the PS2 and the GameCube, two for the Xbox, and one each for the Game Boy Advance and the PC.

Of the PS2 titles, the site rated Sega Corp.'s "Shinobi" highest, at No. 3 overall. Of the Xbox titles, it gave the highest spot to Ubi Soft's "Tom Clancy's Splinter Cell."

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A-ONE's Headline News  
The Latest in Computer Technology News  
Compiled by: Dana P. Jacobson

### Court Overturns Library Filtering Law

A federal court has struck down a law that would have required libraries to block children's access to offensive Web material or lose federal funds, handing a win to librarians and free-speech advocates.

In a ruling Friday that blasted Web filtering technology for blocking both too much and too little on the Internet, a panel of the U.S. District Court for the Eastern District of Pennsylvania said the Children's Internet Protection Act (CIPA) violated the First Amendment and urged libraries to adopt other means to protect children from inappropriate material.

"Filtering products are currently unable to block only visual depictions that are obscene, child pornography, or harmful to minors (or only content matching a filtering product's category definitions) while simultaneously allowing access to all protected speech (or all content not matching the blocking product's category definitions)," the judges wrote. "Any software filter that is reasonably effective in blocking access to Web pages that fall within its category definitions will necessarily erroneously block a substantial number of Web pages that do not fall within its category definitions."

Congress passed the law in 2000, prompting groups such as the American Civil Liberties Union (ACLU) and the American Library Association (ALA) to sue to overturn it on free-speech grounds.

Friday's ruling cited multiple examples of the products' tendencies to overblock--one of the main arguments by opponents of the bill. The court noted that Web filters had erroneously labeled as adult or sexually explicit sites including those of orphanages, political candidates and churches.

"Although software filters provide a relatively cheap and effective, albeit imperfect, means for public libraries to prevent patrons from accessing speech that falls within the filters' category definitions, we find that commercially available filtering programs erroneously block a huge amount of speech that is protected by the First Amendment," the judges wrote.

Filtering companies scrambled to defend themselves after the ruling.

David Burt, a spokesman for filter software maker N2H2, said he was surprised by the tone of the ruling. "I thought they would come down with something a little more moderate than that," he said.

Burt compared a filtering company's efforts with those of the antivirus community, saying that the software companies have to rush to keep up with the constantly changing Web.

"We're never going to be 100 percent, and it seems like the court expects us to be 100 percent," he said.

Burt said library clients contribute to about 2 percent of the company's revenue, and he expects that many will continue to use filters on certain machines in spite of the ruling.

Not surprisingly, librarians praised the decision.

"We are ecstatic that libraries can continue to serve our public and give them the information they need," said Carrie Gardner, chairwoman of the ALA's intellectual freedom roundtable.

Gardner said the ruling won't lead to immediate changes in libraries. She said some libraries already offer a filtering option on some machines, and she doubts they will stop doing that.

"A lot of libraries came to the decision to filter after having a dialogue with their communities," she said. "I don't know of anyone who's willing to push that aside."

Friday's ruling means libraries won't have to put filters on every machine.

Although the judges noted that some young people use libraries to access porn, they pointed out that the filters will not necessarily block out all material inappropriate for minors.

"Those public libraries that have responded to these problems by using software filters have found such filters to provide a relatively effective means of preventing patrons from accessing sexually explicit material on the Internet. Nonetheless, out of the entire universe of speech on the Internet falling within the filtering products' category definitions, the filters will incorrectly fail to block a substantial amount of speech," they wrote.

The judges suggested other methods of dealing with the problem than relying solely on filters. These methods include letting minors use unfiltered machines when accompanied by parents and putting terminals out of view of most patrons so they wouldn't be offended by material on the screen.

"While none of these less restrictive alternatives are perfect, the government has failed to show that they are significantly less effective than filtering software, which itself fails to block access to large amounts of speech that fall within the categories sought to be blocked," the judges wrote.

When it was passed, CIPA marked the latest in a long line of attempts by lawmakers to crack down on Web content. Courts also have overturned parts



of earlier laws--including the Communications Decency Act--saying they violated free speech. Another law, the Child Online Protection Act, is still moving through the courts after a challenge by the ACLU.

Any appeal to Friday's ruling would automatically go to the U.S. Supreme Court.

#### Chip Cuts Pull Low PC Prices Lower

Personal computers, which any savvy shopper can pick up on the Internet for as little as \$600, are about to become cheaper still, analysts said on Tuesday.

Intel Corp. this weekend slashed prices on microprocessors by as much as 53 percent, making it possible for PC makers to cut prices and potentially spur demand in the doggedly weak PC market.

"Historically, that's why PC prices have dropped every year -- passing those component prices through and hopefully maintaining gross margin as a PC manufacturer," said Barry Jaruzelski, a managing partner in the global technology practice at Booz Allen Hamilton in New York.

PC prices fell in 2001 amid a price war led by Dell Computer Corp. , which used its direct business model to gain market share and maintain profits while its competitors booked losses trying to keep up.

Demand from both corporations and consumers weakened in 2001 due to the economic and technology spending decline and as PC buyers began replacing computers less frequently.

As Dell cut prices, Hewlett-Packard Co. and Gateway Inc. tried to keep up, lowering prices to try to retain market share and spur overall demand.

So far in 2002, prices have remained low, although research firm Gartner Dataquest said prices did increase slightly in the first quarter from the fourth quarter, when companies cut prices to jumpstart holiday sales.

But demand for PCs is off from the fourth quarter, with unit sales down in this year's first quarter. HP said recently consumer demand dropped off as its April quarter ended.

As a result of continued weak demand, the Intel cuts and stable pricing of other components such as memory, lower PC prices are likely, analysts agreed. And the first company they say will take advantage of the cuts is Dell, which has low inventories and a direct line to its customers.

A representative of Dell, the No. 2 personal computer maker, wasn't immediately available for comment.

"The way (Dell) benefits is that they have less inventory," said Bear Stearns analyst Andrew Neff. For instance, he said, "If I cut the price today, I'm going to get your business because I'm going to be going up against somebody else at a higher price."

Competitors like Hewlett-Packard who use distributors and sell their PCs to consumers through computer stores, have weeks of inventories of PCs that were built with more expensive chips that they need to sell.

Intel cut the price of its second-fastest processor, the Pentium 4 running at 2.4 gigahertz, by 29 percent to \$400 from \$562. It also cut its fastest mobile chip by 45 percent to \$348 from \$637.

#### Modem Owners Get AT&T Cable Surprise

A new pricing structure from AT&T will result in modem owners paying an extra \$7 for their high-speed Internet service.

AT&T Broadband Internet will announce later Tuesday several changes to the way it charges for its cable modems. AT&T marketing executives framed the changes as price reductions based on the decreasing cost of hardware, but the end result will be higher costs for roughly 162,500 AT&T customers who own their own cable modems.

Almost all AT&T broadband customers now pay \$35.95 per month for high-speed Internet service. Those who lease modems through AT&T pay an additional \$10 per month for a total of \$45.95, and those who own their own modems pay no additional fee.

Starting on June 1 in most regions, AT&T will increase the monthly service rate to \$42.95. Customers who lease their modem from AT&T will have their lease fee reduced by \$7, paying an additional \$3 per month for the modem. That will make their monthly bill come to \$45.95 - the same price they paid last month.

But bills will increase for the 10 percent of AT&T's 1.63 million customers who own their own modems. Their monthly service fee will also go up to \$42.95, which means they're going to pay \$7 per month more than they paid last month.

Although the price restructuring will appear in customers' next statement, modem owners won't feel the sting for six months. AT&T will include in the next statement six coupons for \$7 off monthly service, letting modem owners off the hook for the new rates until January. New subscribers who own their own modems will pay \$42.95 per month as soon as they sign up.

Darrel Hegar, vice president of Internet services for Englewood, Colo.-based AT&T Broadband, said the changes reflected price reductions for cable modems. When home broadband access became popular in the late 1990s and in 2000, cable modems cost \$300 or more. But in the past two years, the price has dropped to \$100 or less, thanks in part to aggressive marketing promotions at computer hardware stores.

Hegar also noted that AT&T's service is still priced lower than alternative broadband service from DSL (digital subscriber line) providers, which typically charge \$50 or more per month. Although connection speeds for cable modem users aren't as consistent as those for DSL subscribers, cable modem users generally report faster upstream speeds.

"If you look at the price of our service, it really still reflects one of the best values in the marketplace," Hegar said Tuesday morning. "Cable Internet continues to be the best way to access broadband vs. DSL or satellite. If you look at availability, speed and price, we are still a value leader."

Based on the number of people paying an additional \$7 per month, AT&T stands to gain \$1.14 million in monthly revenue from the restructuring. But it's unclear why AT&T representatives announced the restructuring as a break for modem leasers as opposed to a simple price hike for 10 percent of customers.

The decision to increase prices for modem owners could be due to the fact that owners have sunk more of their own money into the service and would be less likely to switch to DSL or another broadband alternative, according to Mark Kersey, broadband industry analyst for La Jolla, Calif.-based research group ARS.

"People who own their modems are pretty much locked in to staying with AT&T," Kersey said. "It's a way to extract a little more money out of a small percentage of people. That's a fairly politically smart thing to do because it doesn't affect the vast majority of customers."

The restructuring could also be an effort to make AT&T's broadband unit more attractive to smaller rival Comcast, which in December announced its intention to purchase the AT&T unit for about \$37 billion. The combined company, AT&T Comcast, would be the No. 1 U.S. cable TV operator with more than 22 million subscribers. But the structure of the new company recently came under fire, and shareholders are beginning to question whether to approve the deal.

Despite efforts to boost revenue, AT&T cannot raise monthly broadband rates indiscriminately. Although demand for high-speed Internet connections is still growing, the economic slump has slowed growth somewhat and has resulted in a growing number of broadband defectors. And the industry is still reeling from the painful collapse of former front-runner Excite@Home.

The company's demise caused cable partners, particularly AT&T, to scramble to migrate consumers to independent networks, causing customer service nightmares for millions of people. Before its collapse last fall, Excite@Home had 4.1 million customers and controlled about 45 percent of the U.S. home-broadband market.

Customers are already grumbling that the government should regulate broadband service and access rates, which have risen steadily in the past year. An ARS study determined that cable broadband Internet prices rose 12 percent in 2001, from an average of \$39.40 per month in January to \$44.22 per month in December. Consumer DSL prices rose 10 percent during the same time frame from \$47.18 in January to \$51.67 in December.

#### Alleged Spammer On Hot Seat Again

The New York Attorney General's office filed a lawsuit Monday against an alleged junk e-mailer, in the latest crackdown on unsolicited commercial e-mail, or spam.

New York Attorney General Eliot Spitzer charged MonsterHut, a Niagara Falls, N.Y.-based direct marketer, with sending 500 million e-mails to people whom it falsely claimed had requested the material.

"Every day New Yorkers are being inundated with unsolicited commercial e-mail," Spitzer said in a statement. "Some of the spam is a vehicle for fraud; some of the spam is inherently fraudulent...This lawsuit is the

next battle in our continuing fight against online fraud and an attempt to help consumers maintain control of their e-mail in-boxes."

MonsterHut could not be immediately reached for comment.

The suit adds to a long-running dispute between MonsterHut and PaeTec Communications, the Internet service provider MonsterHut used to host its Web site and shuttle e-mail to millions of recipients. Earlier this month, a New York state appeals court granted PaeTec permission to discontinue Internet service to MonsterHut on the grounds that it violated its contract and PaeTec's acceptable-use policy by sending spam. The decision reversed an injunction that earlier had prevented it from cutting service to the direct marketer.

The charge of the New York Attorney General's office is aligned with other government efforts to stamp out spam. Earlier this year, the Federal Trade Commission launched a campaign to fight fraudulent e-mail. Already, that agency has announced several spam-related busts, including thwarting dozens of alleged Web scammers in conjunction with law enforcement from six U.S. states and Canada.

Lawmakers are also on a fast track to pass a bill that would help deter spam. Earlier this month, anti-spam legislation was approved and sent to the floor by the Senate Commerce Committee with unanimous support from Democrats and Republicans. If passed, the bill would give the FTC the authority to impose fines up to \$10 each on e-mails that violate existing state laws against spam, with a cap of \$500,000.

Spitzer's lawsuit, filed Monday in New York Supreme Court, charges MonsterHut CEO Todd Pelow and Chief Technical Officer Gary Hartl with fraudulently representing the company's marketing service. The suit attacks claims that the company obtains permission from consumers before it sends e-mail to their addresses, a practice known as "opt-in." According to the complaint, the company's e-mail lists are only partially opt-in and include many unwitting recipients.

The suit seeks a court order preventing MonsterHut from sending unsolicited e-mail through other ISPs based in New York. It also aims to enjoin MonsterHut from falsely representing its business and to require the company to disclose how it obtained all of its consumers' e-mail addresses. In addition, the suit asks that MonsterHut's Pelow and Hartl pay civil penalties and court costs for its violations of New York's consumer protection laws.

#### Aussie Spammer Sues Anti-spammer

An alleged Australian spammer is suing an anti-spam advocate after being blacklisted by a spam prevention Web site, in what is believed to be a first of its kind case worldwide and one that could end up bigger than Ben Hur, according to a source close to the proceedings.

Perth-based T3 Direct is seeking compensation of \$24,708 (AU\$43,750) from Joseph McNichol, whom it alleges caused the company to be blacklisted on the spews.org Web site.

Blacklisted sites distribute lists of Internet Protocol (IP) addresses online that are believed to be involved in spamming activities, enabling

end users to block traffic from such IP addresses.

Because other blacklisted sites have been sued and shut down, SPEWS - Spam Prevention Early Warning System - operates in secret, with no listed contact details. It is a not-for-profit organization.

A writ of summons was filed against McNichol on May 24, upon receipt of which he was given 10 days to confirm his awareness of the charges.

"It's only the second spam-related lawsuit in Australia and the first of its kind worldwide," said Troy Rollo of the Coalition against Unsolicited Bulk E-mail. "It's the first time someone has gone and sued someone else just for saying they are a spammer."

T3 is seeking loss and damages of \$7,907 (AU\$14,000) for replacing blocked or compromised IP numbers, \$2,683 (AU\$4,750) for labor costs of technicians to establish an alternative e-mail system, \$2,824 (AU\$5,000) to purchase a new server computer and \$11,296 (AU\$20,000) for loss of income it claims to have incurred over a 20-day waiting period for a new Internet connection to be installed.

Rollo, who claims some of the damages being sought by T3 Direct are -clearly not justified based on the pleadings of the case,- is in the midst of establishing a Web site for the case from which a legal defense fund will be set up for McNichol.

Jeremy Malcolm, an independent Perth-based solicitor who specializes in IT law and is representing McNichol, said he wouldn't be putting in a defense straight away and would be applying for a summary judgment in the hopes of not having to go to trial.

Malcolm described the statement of claim against his client as a "fairly weak claim" brought about to intimidate a critic of T3 Direct.

"We will defend it as strongly as we can."-

Mark Reynolds, president of Western Australia Internet Association, claimed it had received many complaints about T3 Direct over the years.

In response to many, many complaints this year about spam, Reynolds said the Association is working on a policy derived in consultation with its members that will enable it to recommend to its members - 60 ISPs in WA - what they should do in regards to spam. As the WA Internet Association owns and operates WA-based exchanges which most ISPs exchange information on for a low cost, Reynolds said the ultimate aim was to enforce its spam policies for users of that network and if ISPs chose to ignore the Association's policy deny them use of the network.

Reynolds also said it was the first case of its kind he had heard of. "It's the first time a known spam organization is suing an end user who made public complaints about receiving spam." Reynolds added that as overseas anti-spam organizations had already got wind of the proceeding, it could end up bigger than Ben Hur.

Nichols aired his view about T3 Direct's activities on his Web site, [www.vtgts.com](http://www.vtgts.com).

T3 Direct's legal representatives, Perth-based Tan and Tan Solicitors, did not return ZDNet Australia's calls by press time.

## FBI: Cybercrime Is Now A 'Top 10 Priority'

The director of the FBI announced Wednesday that a major reorganization of the agency would include a new focus on cybercrime and technology.

Protecting the United States against "cyber-based attacks and high-technology crimes" is one of the FBI's top 10 priorities, Director Robert Mueller said at a news conference detailing a major reorganization of the agency.

Preventing high-tech crime "is a protection of our infrastructure," he said. Cyberterrorism and cybercrime can happen anywhere, and "you need the overarching responsibility in an agency such as the FBI."

The cybercrime focus is part of a major reorganization that will also add new agents and put more resources toward preventing terrorism.

The FBI recently announced a new "Cyber Division" to coordinate the agency's technology-related efforts. The division is being charged with supervising investigations of federal violations where the Internet, computer systems and networks "are exploited as the principal instruments or targets of criminal activity," the FBI has said.

Larry Mefford, who had served as associate special agent in charge of the San Francisco Field Office, was named assistant director of the Cyber Division.

The reorganization comes as news that a glitch in the FBI's e-mail wiretap system could have hindered investigations into terrorist threats.

Mueller also said Wednesday that upgrading technology to support the FBI was a top priority.

"Upgrading our technology means not just getting our computers on board and our hard drives, but everybody from the top to the bottom getting facile with the technology," he said. The FBI has been "years behind where it should be."

## Study Looks At Online Piracy

More than one third of all American Internet users have downloaded commercial software online, yet have failed to pay for all the copies they have made, according to a survey released by the Business Software Alliance (BSA), an organization of which Apple is a member.

The Business Software Alliance is dedicated "to promoting a safe and legal online world." Besides Apple, members include Adobe, Autodesk, Bentley Systems, Borland, CNC Software/Mastercam, Macromedia, Microsoft, Symantec and Unigraphics Solutions.

The BSA survey of 1,026 Internet users found that nearly half have downloaded commercial software at some time, and that 81 percent of them haven't paid for all the copies they made. In fact, 57 percent of those who have downloaded software either seldom or never pay for the copyrighted

works they download, according to the study conducted by Ipsos Public Affairs. Twelve percent say they have committed software piracy.

The survey was conducted among a national cross-section of U.S. households in the Ipsos Internet panel, which is a nationally representative panel of 30,000 households across the United States. The margin of error is plus or minus 3.1 percent.

"This is the first time we've identified end user attitudes about online theft," Robert Holleyman, president and CEO of BSA, said in announcing the survey results. "And what we found is a disturbing behavioral trend that violates copyright laws and costs billions of dollars and hundreds of thousands of jobs every year."

Though many may not realize they're breaking the law, it's clear that a large number of Internet users who download software make "situational" decisions about whether to pay for it or not, he said. When asked if they would consider downloading a commercial software program to save money -- even if it might be an unlicensed or pirated version -- almost half of them say it would depend on the circumstances.

Interestingly, the survey also showed that 95 percent of Internet users surveyed think software creators should be paid for their work. And 85 percent believe strong intellectual property protections are crucial for protecting the revenues companies depend on to fund research and development.

Still, Holleyman said the "alarming degree" of online consumer piracy points to the need for enhanced education and enforcement programs aimed at maintaining a safe and legal online world for both consumers and software creators. For this reason, BSA has deployed new tools such as MediaForce's automated solution, which crawls the Web to detect infringing copies of BSA, said Bob Kruger, BSA vice president of enforcement.

The organization recently began using MediaForce's MediaSentry system to patrol the Internet for unauthorized copies of software programs on peer-to-peer systems, Internet Relay Chat (IRC) channels, Web sites, File Transfer Protocol (FTP) sites and newsgroups. In the three months since MediaSentry has been incorporated in BSA's enforcement program, more than 8,500 notices have been sent to software infringers' Internet service providers (ISPs). That's 5,200 more notices than BSA sent in all of 2001.

What's more, BSA has formally introduced the MediaSentry investigation system, which lets the organization expand and manage its investigative efforts more effectively by automating a large portion of its notification and compliance program, Kruger said. The system enhances BSA's online investigations by "crawling" the Internet for infringing copies of BSA member software programs and providing BSA investigators with a comprehensive system for acting upon the results, he explained.

Kruger said that several factors contribute to the pervasiveness of software piracy online, including the growing number of Internet users, increases in bandwidth and transmission speed, the popularity of Internet auction sites, and the heightened sense of anonymity when consumers commit piracy at home. While people may understand that software developers depend on licensing fees to create their works, "they don't appreciate how their own conduct undermines this creativity," he added.

"We need to explain how their actions contribute to lost jobs and lost investment in new and innovative products," Kruger said. "A big part of

stopping piracy is correcting the misconceptions."

BSA is boosting its education efforts aimed to enlighten users about software ethics and compliance, he said. The organization recently partnered with Weekly Reader to create an educational curriculum about piracy and safe software use for U.S. and Canadian elementary and middle school classrooms. Last year, BSA was also awarded a federal grant to raise public awareness about cyber crime, with particular emphasis on school-age children.

#### Whose Laws Rule On the Wild Wild Web?

Former Yahoo CEO Tim Koogle could find himself cuffed if he sets foot on French soil. His alleged crime: Allowing the posting of Nazi collectibles on Yahoo's U.S.-based site--an action Holocaust survivors say violates France's war crimes laws.

In another case, Russian software programmer Dmitry Sklyarov was jailed after entering the United States last year. The charges related to providing software that could be used to crack e-books, an action that is not a crime in his homeland but that violates U.S. copyright law, federal authorities say.

These are only two examples of companies and executives that do business online and are being dragged into foreign courts for selling products or posting materials that are legal in their own countries but that offend the sensibilities or violate the laws of another land. Such challenges increasingly include criminal charges.

"That is the scariest prospect for people who are either posting or doing business on the Internet," said Mike Godwin, a policy fellow at the Center for Democracy and Technology. "If you operate a Web site that's accessible in France or even if you're an (Internet service provider) who provides services in France, you might find yourself touching down at the airport there and being served."

Disagreements over how to apply local laws to the Internet have simmered for years but are now reaching full boil. A French court this month set a January 2003 trial date in the case against Yahoo and Koogle. The United States, meanwhile, will take on Sklyarov's employer, ElcomSoft, in a trial scheduled to begin Aug. 26. Charges against Sklyarov were dropped in exchange for his testimony in the pending suit against his employer.

Both cases underscore burgeoning rifts in efforts to craft international agreements in key areas of law enforcement.

Several nations are trying to sort out cross-border Net issues with treaties, but it's been a divisive battle. So far, copyright is one of the few areas where nations have reached some consensus, such as through a World Intellectual Property Organization (WIPO) copyright agreement ratified in 1996.

The United States used the WIPO agreement to lay the groundwork for the Digital Millennium Copyright Act, the law U.S. prosecutors used to charge Russia-based ElcomSoft. The United States and 34 other countries signed the WIPO treaty, which went into effect this March. Several states in the former Soviet Union have signed on; Russia has not.



Treaties that would govern other areas are even more contentious, partly because of conflicts over cultural issues such as privacy and free speech. For example, Europe has strict rules about consumer privacy and the posting of material that could be considered racist, meaning sites based in the United States and elsewhere risk crossing the line by posting certain content, even if it's legal in their home countries.

Members of the Council of Europe have spent years hammering out a cybercrime treaty, which is still awaiting approval by member nations. Critics of the plan argue that it may, among other things, prevent the use of any tool that could be used for hacking or severely restrict speech.

On Friday, members of a Council of Europe committee signed off on a provision that would make it a crime to distribute racist or xenophobic material via computer systems, a move legal experts say could lead to more cases like Yahoo's.

"What you're likely to see is more and more countries around the world adopting hate-speech laws and enforcing them," said Jonathan Band, an attorney with Morrison Forrester who has advised the United States on the treaty. "That could really create a big problem for the Internet."

Meanwhile, the United States and several other nations around the world are still working out details of a Hague Convention treaty that would require nations to enforce each other's laws on a variety of topics, a plan critics say could stifle speech and commerce on the Web.

So far, the lack of sound international cyberlaws has hampered at least one major criminal case. Prosecutors dropped charges against the student who allegedly released the mischievous I Love You virus, which wreaked havoc by multiplying and distributing itself across millions of computers around the globe. The student lived in the Philippines, which at the time had no specific laws preventing the action.

Certainly, conflicts over jurisdiction have been around for centuries, but the Internet introduces a new set of questions about how to apply cross-border laws. In the physical world, the ground rules are relatively well established, bolstered by years of international treaties, case law and agreements between specific nations that dictate how such laws are applied and enforced.

For example, a person hawking girlie calendars in a conservative Muslim land is clearly violating the laws there, as is someone who knowingly ships wine to a dry county. Generally, laws governing such issues have considered whether the seller was actively trying to promote products to a population that's banned from buying them.

But the Web changes the dynamics. When you put up a Web site, virtually anyone can stop by and shop. And often, sites aren't selling items but are merely posting speech that some might find objectionable.

Without treaties or consistent case law, the question remains: What constitutes doing business on the Web?

Is putting up a Web site enough to warrant prosecution? Or must you target it to specific populations? What about disclaimers? Is it a deterrent to plaster a warning across your site saying "these pages are for U.S. residents only"?

So far, such questions have for the most part gone unanswered. But the legal tangle will surely be unraveled as conflicting laws governing issues such as gambling, obscenity and copyright clash on the borderless Web.

Perhaps no case highlights the confusing thicket of jurisdictional issues on the Web more than the Yahoo imbroglio. The saga began two years ago when two French human rights groups sued Yahoo, arguing that the posting of historical Nazi items on the company's U.S.-based site violated French law prohibiting the display of racist material. A French judge sided with the groups, ordering Yahoo to block French citizens from accessing the site or face steep fines. However, Yahoo turned to the U.S. courts and asked a judge to declare the French law unenforceable here. He did.

Now, the company is facing another set of charges that it, along with former CEO Koogler, violated the country's war crime laws by displaying the items. In perhaps the most curious aspect of the case, the American Yahoo site at issue had no physical presence in France.

That's in contrast to ElcomSoft, whose employees traveled to the United States, and which allegedly was offering the disputed software via some U.S.-based servers.

Yahoo has pulled the disputed items from its site and says it will no longer allow such postings. Furthermore, the company has a host of local sites tailored to many countries--including France--that obey the laws of each land and have never allowed posting of items illegal in those countries.

The case is scheduled to go to trial early next year. Koogler could face jail time as a result of the charges. He did not return calls seeking comment.

Some fear jurisdictional disputes could set off a firestorm of recrimination, where prosecution of a foreign company in one country prompts retaliatory laws in another, escalating isolated scuffles into all-out war.

"If we do it with the DMCA, another country is going to do it with another law," said Joseph Burton, an attorney with Duane Morris who's representing ElcomSoft. "It's a pretty horrible situation."

Meanwhile, some countries seem to want to have it both ways. Take the United States, for example. Courts and law enforcement here have repeatedly reached across borders and clamped down on foreign companies accused of violating U.S. copyright law on the Web.

In addition to U.S. prosecutors filing criminal charges against ElcomSoft, a U.S. judge ordered Canadian company iCraveTV.com to shutter its site after American broadcasters complained it was stealing their copyrighted works. An Italian Web site had to block U.S. citizens' access to its site on orders from a U.S. court.

However, when the shoe is on the other foot, U.S. courts have sometimes said foreign laws do not apply here, such as when a U.S. judge decided that the French ruling ordering Yahoo to block French citizens' access to its site is not enforceable in America.

"There is a certain hypocrisy," said Doug Isenberg, an Atlanta-based Internet lawyer who publishes the GigaLaw.com site and is not involved in the cases. "I don't know that you can ultimately have it both ways."

Many of those who track such jurisdictional issues think the problems prompted by the borderless Web eventually could be resolved by treaty, but how such a pact will look is anyone's guess, given the conundrums already posed by the Hague and the Council of Europe's cybercrime treaty.

Some have argued that the Web should be regulated as an international resource.

"Indeed, the places most analogous to the Internet, in a jurisdictional sense, are outer space and the international waters," ElcomSoft attorneys wrote in one of their briefs.

While parties on both sides of such cases wage debates over whose laws apply, there is one thing they can agree on: The confusing snarls over jurisdiction will continue for years. Indeed, most of the cases so far have involved the United States, France and Canada, regions hardly known for restrictive laws governing speech and commerce.

What happens when countries with harsher laws--such as those governed by dictators or strict religious rules--weigh in with judgments of their own and reach across borders to try to enforce them?

"These things are going to continue around the world because, as near and dear as the First Amendment is to us, other countries have different histories and different cultural sensitivities," said Richard Jones, an attorney with Coudert Brothers representing French human rights groups that have sued Yahoo over the Nazi paraphernalia.

Organizations including the American Civil Liberties Union wrote in their brief supporting Yahoo: "The French court's order is but one example of the sort of judgment that this and other American courts can expect to see with increasing frequency as Internet use expands throughout the world."

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